



Hundredth Legislature - Second Session - 2008
Committee Statement
LB 633

Hearing Date: February 20, 2007
Committee On: Agriculture

Introducer(s): (Dierks)
Title: Change the Competitive Livestock Markets Act

Roll Call Vote – Final Committee Action:

Advanced to General File
Advanced to General File with Amendments
X Indefinitely Postponed

Vote Results:

6	Yes	Senators Karpisek, McDonald, Dubas, Wallman, Dierks, Erdman
	No	
	Present, not voting	
2	Absent	Senators Chambers, Preister

Proponents:

Senator Dierks
Vern Jantzen
John O’Dea
Louis Day
Pete McClymont

Representing:

Introducer
Nebraska Farmers Union
Independent Cattlemen of NE
Self
Nebraska Cattlemen

Opponents:

Jack Moors
Larry E. Sitzman
Walt Radcliffe

Representing:

Cargill Meats Inc
Nebraska Pork Producers Association
Tyson Foods

Neutral:

Rob Robertson
Rick Keith

Representing:

Nebraska Farm Bureau
Producers Livestock Marketing Association

Summary of purpose and/or changes:

LB 633 proposed a substantive rewrite of the Competitive Livestock Markets Act that would address certain issues that have arisen as an indirect result of federal preemption of the Act’s price reporting provisions and as a result of litigation in federal courts on similar laws in other states. Most notably, the bill draft eliminates the existing swine price discrimination and cattle contracting provisions to avoid likely Commerce Clause litigation and questions of market disruption that have accompanied implementation of similar provisions in other states. These are replaced with new prohibitions that

create state causes of action and prosecution for violations similar to Packers & Stockyards Act provisions. Specifically, the bill:

- Outright repeals existing sections that pertain to swine price discrimination and cattle contract procurement restrictions.
- The existing price discrepancy prohibitions for swine procurement in §54-2607 is replaced with language prohibiting certain unfair procurement prohibitions modeled after section 202 (7 U.S.C. 192) of the federal Packers & Stockyards Act and applies to procurement of either swine or cattle. Specifically, the draft incorporates prohibitions against any unfair or unjustly discriminatory practice or giving or subjecting any person or locality to unreasonable preference and advantage. Unreasonable preference or advantage is further defined. The prohibition is extended to govern procurement practices of swine contractors. Swine contractor is added as a defined term under the Act by section 2 of the bill.
- Existing causes of action and contract remedies, and criminal penalties, that currently pertain to the swine price discrimination provisions are made to apply to the prohibitions under §54-2607 as amended. The prohibitions against discriminatory procurement practices are decoupled from state price reporting and are therefore not indirectly preempted if state price reporting is preempted by Federal law. A conforming amendment is made to §54-2607.01 by section 11 to acknowledge that only §54-2613 is preempted by the federal Livestock Mandatory Reporting Act of 1999.
- Price reporting provisions for cattle procurement currently in §54-2623 are consolidated with price reporting provisions for swine in §54-2613 and harmonizing internal citations in other sections are made where appropriate. There is no change to the information required to be reported under the existing price reporting sections.

Explanation of amendments, if any:

Senator Philip Erdman, Chairperson